

The Gazette of India



EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 17] NEW DELHI, TUESDAY, MARCH 29, 1955

MINISTRY OF LAW

New Delhi, the 29th March 1955

THE ANDAMAN AND NICOBAR ISLANDS OPIUM SMOKING (PROHIBITION) REGULATION, 1955

No. 3 OF 1955

Promulgated by the President in the Sixth Year of the
Republic of India

A Regulation to amend and consolidate the law relating to the
prohibition of opium smoking in the Andaman and
Nicobar Islands.

In exercise of the powers conferred by clause (2) of article 243
of the Constitution, the President is pleased to promulgate the
following Regulation made by him:—

1. (1) This Regulation may be called the Andaman and Nicobar Islands Opium Smoking (Prohibition) Regulation, 1955. Short title, extent and commencement.

(2) It extends to the whole of the territory of the Andaman and Nicobar Islands.

(3) It shall come into force at once.

2. In this Regulation, unless the context otherwise requires,— Definitions.

(a) "Chief Commissioner" means the Chief Commissioner of the Andaman and Nicobar Islands;

(b) "Collector" means the Collector of land revenue in the Islands and includes any other person appointed by the Chief Commissioner to discharge all

or any of the functions or to exercise all or any of the powers of the Collector under this Regulation in relation to any local area;

(c) "Excise-officer" means any person who may be appointed by the Chief Commissioner to discharge all or any of the functions or to exercise all or any of the powers of an Excise-officer under this Regulation in relation to any local area;

(d) "Islands" means the Andaman and Nicobar Islands;

(e) "notification" means a notification published in the Official Gazette;

(f) "opium smoker" means a person who smokes prepared opium;

(g) "place" includes a building, house, shop, booth, tent, vessel, raft, vehicle and enclosure, and any part thereof;

(h) "prepared opium" means *chandu*, *madak* or any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking and includes the dress or other residue remaining after opium is smoked; and

(i) "registered" in relation to any person means registered on or before the thirtieth day of September, 1953, as a smoker of prepared opium in the Islands and deemed under section 3 to have been registered as such under the Regulation.

Validation of certain acts and proceedings.

3. All acts and proceedings which have been done and taken with respect to registration of opium smokers in the Islands on or before the thirtieth day of September, 1953, by the Chief Commissioner or by any person acting under the authority of the Chief Commissioner or otherwise in pursuance of any order or notification made or issued by the Chief Commissioner before the commencement of this Regulation, shall be valid and operative, as if such acts and proceedings had been done and taken in accordance with law; and all persons registered in pursuance of any such order or notification made or issued by the Chief Commissioner, shall be deemed to have been registered under this Regulation, as if this Regulation was in force on the date of such order or notification and authorised the registration of opium smokers in the Islands on or before the thirtieth day of September, 1953, in accordance with the provisions of such order or notification.

Smoking of prepared opium.

4. Whoever, not being registered, smokes prepared opium shall be punished for the first offence with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and for every such subsequent offence with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

5. If any person, not being registered, is found in possession of prepared opium or of any apparatus used for the smoking of, or in the manufacture of, prepared opium, it shall be presumed, until the contrary is proved, that such person smokes prepared opium.

6. Whoever manufactures, possesses, barters, sells, keeps or exposes for sale or attempts to sell any prepared opium, or assists any other person whether registered or not, in the manufacture of prepared opium, shall be punished with imprisonment which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

Exception.—Manufacture, or possession for his own use, by a registered opium smoker of prepared opium, not exceeding one tola in weight or such other lesser quantity as the Chief Commissioner may, by notification, direct, shall not be an offence under this section.

7. Whoever opens, keeps or uses any place, or permits any place to be used, for the purpose of enabling two or more persons, whether registered or not, to meet together to smoke prepared opium, or has the care of management of or in any way assists in conducting the business of, any place used or kept for the said purpose, shall be punished with imprisonment which may extend to two years or with fine which may extend to two thousand rupees, or with both.

8. If two or more persons, whether registered or not, assemble in any place for the purpose of smoking prepared opium, each such person shall be punished with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

9. If any prepared opium or any apparatus used for smoking, or in the manufacture of, prepared opium, is found in any place where two or more persons, whether registered or not, are assembled, it shall be presumed, until the contrary is proved, that the place is used, and that the persons are present in such place, for the purpose of smoking prepared opium.

10. (1) Whenever any person is convicted of an offence punishable under this Regulation, the Magistrate may, in addition to any sentence which may be passed by him, order such person to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of offences under this Regulation during such period, not exceeding three years, as he thinks fit to fix.

(2) The bond shall be in the form contained in the Schedule annexed to this Regulation and the provisions of the Code of Criminal Procedure, 1898 shall, in so far as they

are applicable, apply to all matters connected with such bond, as if it were a bond ordered to be executed under section 106 of that Code.

Power to enter and search any place and to seize articles and to arrest persons found in such place.

11. (1) If the Collector or a Magistrate of the first class or second class, upon information received and after such inquiry, if any, as he considers necessary, has reason to believe that any place is used for the commission of an offence under this Regulation, he may, after recording the substance of the information,—

(a) enter such place by day or night with such assistants as he may consider necessary;

(b) search all parts of such place in which he has reason to believe that any prepared opium or any apparatus for the smoking of such opium or for the manufacture thereof, is concealed and all or any of the persons whom he may find in such place;

(c) arrest any person found in such place, whom he has reason to believe to be guilty of an offence under this Regulation; and

(d) seize all prepared opium and apparatus for the smoking or for the manufacture thereof, which may be found in such place; or

(e) issue a warrant to any Excise-officer or any Police Officer (not below the rank of a Sub-Inspector) authorising such officer to do any of the acts specified in clauses (a), (b), (c) and (d) of this sub-section.

(2) Whenever any Excise-officer or any Police Officer (not below the rank of a Sub-Inspector) has reason to believe that any place is used for the commission of an offence under this Regulation and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, such officer may, after recording the grounds of his belief, do any of the acts specified in clauses (a), (b), (c) and (d) of sub-section (1).

Application of Code of Criminal Procedure, 1898 to warrants and searches under section II.

12. (1) The provisions of the Code of Criminal Procedure, 1898 shall apply to the execution of warrants and to searches made under section 11.

V of 1898.

(2) For the purpose of the said provisions of the said Code, the Collector shall be deemed to be a Court.

Report to be made in case of arrest or seizure.

13. (1) Whenever any officer makes an arrest or seizure under this Regulation, he shall without delay, and in any case within twenty-four hours, forward every person arrested and everything seized with full particulars of the arrest or seizure to the Collector or to the Magistrate, as the case may be, by whom the warrant was issued, or to the nearest police-station, if the arrest or seizure was made

by such officer while exercising his powers under sub-section (2) of section 11.

(2) In the case of any arrest or seizure made under the authority of a warrant issued by the Collector, the said officer shall, unless the Collector proceeds under section 14, within the aforesaid period of twenty-four hours, forward the person and things produced before the Collector to a Magistrate having jurisdiction to try the case together with full particulars of the arrest or seizure.

14. (1) The Collector may, without the order of a Magistrate, investigate any offence punishable under this Regulation which a court having jurisdiction over the local area within the limits of the Collector's jurisdiction would have power to try. Powers of Collector to investigate offences.

(2) The Collector may, after recording in writing his reason for suspecting the commission of an offence which he is empowered to investigate, exercise any of the powers conferred upon a Police Officer making an investigation, or upon an officer in charge of a police-station by sections V of 1898. 160 to 171 of the Code of Criminal Procedure, 1898.

(3) The Collector may, without reference to a Magistrate and for reasons to be recorded by him in writing, stop further proceedings against any person concerned, or supposed to be concerned in any offence which he has investigated.

V of 1898. (4) As soon as an investigation by the Collector has been completed, if it appears to him that there is sufficient evidence to justify the forwarding of the accused to a Magistrate, the Collector shall submit a report [which shall, for the purposes of section 190 of the Code of Criminal Procedure, 1898, be deemed to be a police report] to a Magistrate having jurisdiction to try the case and empowered to take cognizance of offences on police reports.

(5) The powers conferred on the Collector by this section may, subject to the control of the Collector, be exercised by an Excise-officer, duly empowered by the Chief Commissioner in this behalf.

15. Whenever any person arrested under this Regulation is prepared to furnish bail to the satisfaction of the officer making the arrest, he shall be released on bail, or at the discretion of the officer making the arrest on his own bond. Bail and security.

16. Every officer of the Police, Forest or Land Revenue Department shall be bound to give reasonable aid to the Collector and Excise-officers in carrying out the provisions of this Regulation upon a request made by such officer. Aid to Collector and Excise-officers.

17. On the conclusion of a trial for an offence under this Regulation, the Magistrate may order that any prepared opium and any instrument or appliance in respect of, or by means of which such offence has been committed, or appears to have been committed, or any receptacle, package or cover- Power of Magistrate to confiscate or destroy seized articles.

ing in which such prepared opium, instrument or appliance was found and any other contents of such receptacle, package or covering shall be confiscated or destroyed.

Offences triable by certain Magistrates only.

18. No Magistrate other than a Magistrate of the first class or a Magistrate of the second class specially empowered by the Chief Commissioner in this behalf, shall try any offence punishable under this Regulation.

Cognizance of offences.

19. No Magistrate shall take cognizance of an offence punishable under this Regulation except on the complaint or report of the Collector or an Excise-officer or a Police Officer (not below the rank of a Sub-Inspector).

Indemnity.

20. No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Regulation.

Power to make rules.

21. The Chief Commissioner may, by notification, make rules for the purpose of carrying into effect the provisions of this Regulation.

Provided that no such rule shall authorise the registration of opium smokers after the commencement of this Regulation.

Provided further that in making such rules, the Chief Commissioner may cancel, rescind, vary or otherwise amend any order or notification made or issued by him before the commencement of this Regulation.

Regulation X of 1940. 22. The Andaman Islands Opium Smoking Regulation, Repeal 1940 is hereby repealed.

THE SCHEDULE

BOND TO ABSTAIN FROM THE COMMISSION OF OFFENCES UNDER THE ANDAMAN AND NICOBAR ISLAND OPIUM SMOKING (PROHIBITION)

REGULATION, 1955.

(See section 10)

Whereas I

(name) son of
wife

..... (father's name or husband's name)

..... inhabitant of

..... (place), have been called upon to enter into a bond to abstain from the commission of offences under the Andaman and Nicobar Islands Opium Smoking (Prohibition) Regulation, 1955 for the term of

(period), I hereby bind myself not to commit any

such offence during the said term, and in case of my making default therein, I hereby bind myself to forfeit to Central Government, the sum of rupees
Dated this day of 19.....

Signature.

(Where a bond with sureties is to be executed, add.)

We do hereby declare ourselves sureties for the above-named that he will abstain from the commission of offences under the Andaman and Nicobar Islands Opium Smoking (Prohibition) Regulation, 1955 during the said term, and, in case of his making default therein, we bind ourselves, jointly and severally to forfeit to the Central Government the sum of rupees.....

..... Dated this day of 19....

Signature.

Signature.

RAJENDRA PRASAD,

President.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.

